IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.1399 OF 2006

Dadasaheb Narayanrao Manmadkar .. Petitioner
v/s.
The Income Tax Officer, Ward 1(4),
Pandharpur and another. .. Respondents

Mr.S.S.Patwardhan for the petitioner.

Mr.Ashok Kotangale for the respondents.

CORAM : R.M. LODHA &
J.P.DEVADHAR, JJ.

DATED : 14TH MARCH, 2006.

P.C.

Heard Mr.S.S.Patwardhan, the learned counsel for the petitioner and Mr.Ashok Kotangale, the learned counsel for the respondents.

2. The petitioner seeks to impugn the notice dated 20th January, 2005 issued by the Assessing Officer under section 148 of the Income Tax Act for reopening the assessment for the assessment year 2003-2004. It is not in dispute that the Assessing Officer has now furnished the reasons to the petitioner. In GKN Driveshafts (India) Ltd. v. Income-Tax

Officer and others, 259 ITR 19, the Apex Court has observed that once the reasons for reopening of assessments under section 148 of the Income Tax Act are disclosed, the assessee may file objections and if such objections are filed, the Assessing Officer has to dispose of the said objections by a speaking order.

3. The learned counsel for the petitioner submits that the petitioner has not filed any objection. In our considered view, it would have been proper if the petitioner had filed the objections before the Assessing Officer to the reopening of the assessment for the assessment year 2003-2004 before approaching this court.

4. We, accordingly, dispose of the writ petition by the following order:-

(i) The petitioner shall be at liberty to file objections to the reopening of the assessment for the assessment year 2003-2004 pursuant to the notice issued to him under section 148 of the Income Tax Act and the reasons supplied by the Assessing Officer.

(ii) If such objections are filed within three weeks from today, the Assessing Officer shall dispose

of the objections by passing a speaking order.

(iii) For a period of four weeks from the date of communication of the order disposing of the petitioner's objections, the Assessing Officer shall not proceed with the assessment for the assessment year 2003-2004.

(R.M.LODHA, J.)

(J.P.DEVADHAR, J.)